REMARKS/ARGUMENTS

Claims 1-40 were pending. Claims 1-7, 16-28, and 37-40 were examined, with claims 8-15 and 27-36 having been withdrawn pursuant to an election of species requirement. The claims have been amended and canceled as noted above. Reexamination and reconsideration of the claims, as amended, are respectfully requested.

As an initial matter, applicants note that only three independent claims had been pending, i.e. claim 1, 20, and 40. Claim 40 has been canceled. Claims 1 and 20 have been amended somewhat differently, and will be considered separately in the discussions below.

Independent claim 1, as well as claims 2-7 and 16-20, dependent thereon, were rejected as being anticipated by or obvious over U.S. Patent Publication 2004/0117003 optionally in combination with Hoffman '977. Such rejections are traversed and part and overcome in part, as follows.

Independent claim 1 was directed at a method for treating an aneurysm comprising delivering at least one therapeutic agent at a location near the aneurysm. Ouriel '003 nowhere describes delivering a therapeutic agent to an aneurysm. The teaching in Paragraph 123 referred to by the Examiner suggests only that an aneurysmal prosthesis may be modified in various physical and chemical aspects to achieve a variety of different objectives. The most pertinent examples are that an inner surface of the device may have an anti-thrombogenic agent such has heparin, incorporated thereon, or that an outer surface may be modified to incorporate a thrombogenic agent, such as thrombin. These modifications are meant to control some aspect of the interaction of the device with the surrounding blood vessel, e.g. thrombus inhibition or alternatively thrombus promotion. The present invention, in contrast, is intended to deliver a therapeutic agent to a location near the aneurysm.

In an effort to further distinguish the teachings of Ouriel, applicants have amended independent method claim 1 to state that the therapeutic agent is "directed" to a location near the aneurysm and that the therapeutic agent "inhibits dilation and weakening of a wall of the aorta." Specific agents for achieving this therapy are set forth, for example, in claim 17.

The Examiner has rejected claim 17, which includes the specific agents for a therapeutically treating aneurysms over Ouriel '003 further review of Hoffman '977. While Hoffman does teach vascular prostheses having antibiotics in a collagen coating, the collagen coating is on the interior surface 16 of the prosthesis, and nowhere does Hoffman teach or suggest that the antibiotic or any other therapeutic agent would be delivered to an aneurysm for therapeutic purposes. Indeed, the only purpose of the antibiotic, or other material such as antithrombic agents, is to help insure against graft infection. See, e.g. col. 2, lines 20-24. For these reasons even though Hoffman does teach an incorporation of antibiotics, including tetracycline as set forth in claim 17 of the present application, there is no teaching or suggestion that the drug-coated prostheses would ever be used for treating an aneurysm according to method claim 1 of the present application.

In an effort to further distinguish the combination of Ouriel and Hoffman, independent claim 1 has been amended to clarify that the therapeutic agent being delivered is directed "outwardly to a location on the aortic wall near the aneurysm" in order to inhibit dilation and weakening of the wall that is described previously.

In view of the above amendments and arguments, applicants believe that independent claim 1, as well as all of dependent claims 2-20 clearly distinguish the art and are in condition for allowance.

Independent device claim 21 has also been amended to further distinguish the teachings of Ouriel and Hoffmann, albeit in a different manner than the method claim 1. Device claim 21 now clarifies that the device for delivering at least one therapeutic agent up to a location near the aneurysm includes both an anchor and a skirt extending from the anchor. The skirt and anchor are together configured so that the skirt carries the therapeutic agent and extends toward a wall of the aneurysm when the anchor is implanted adjacent to the aneurysm. Thus, independent claim 21 now generally incorporates the features previously set forth in dependent claim 24.

In rejecting dependent claim 24, the office action relies on stent 46 as the anchoring member, but it is not clear what component of the Ouriel device is thought to be equivalent to the skirt member. It is clear, however, from Figs. 5D, 8, and 13, that the prostheses

of Ouriel has no structure equivalent to the skirt of the present invention for releasing a therapeutic agent toward a wall of the aneurysm when the anchor is in place adjacent to the aneurysm. Indeed, there is no teaching in Paragraph 123 or elsewhere which would remotely suggest the desirability of delivering any therapeutic agent toward an aneurysmal wall or providing any structure for doing so. As such teachings and suggestions are also absent from the Hoffman patent, applicants believe that independent claim 21, as well as all of claims 22-28 and 37-39 dependent thereon are in condition for allowance.

For completeness, applicants note that dependent claims 29-36, directed at a different embodiment of the device of the present invention, have been canceled. Also, independent claim 40 has been canceled. All cancellations have been made without prejudice to refiling in the subsequent application.

CONCLUSION

If for any reason the Examiner believes that a telephone conference would in any way expedite prosecution of the subject application, the Examiner is invited to telephone the undersigned at (650) 326-2400.

Respectfully submitted,

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